

## **Chapter 19**

### **Labor Disputes**

#### **34-19-1 Declaration of policy.**

In the interpretation and application of this chapter, the public policy of this state is declared as follows:

- (1) It is not unlawful for employees to organize themselves into or carry on labor unions for the purpose of lessening hours of labor, increasing wages, bettering the conditions of members, or carrying out the legitimate purposes of such organizations as freely as they could do if acting singly.
- (2) The labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural or horticultural organizations, instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate object thereof; nor shall such organizations or membership in them be held to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.
- (3) Negotiations of terms and conditions of labor should result from voluntary agreement between employer and employee. Governmental authority has permitted and encouraged employers to organize in the corporate and other forms of capital control. In dealing with such employers the individual unorganized worker is helpless to exercise actual liberty of contract and to protect the individual unorganized worker's freedom of labor and thereby to obtain acceptable terms and conditions of employment. Therefore, it is necessary that the individual employee have full freedom of association, self-organization, and designation of representatives of the individual employee's own choosing to negotiate the terms and conditions of the individual employee's employment, and that the individual employee shall be free from the interference, restraint or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or their mutual aid or protection.

Amended by Chapter 297, 2011 General Session

#### **34-19-2 Injunctive relief prohibited in certain cases.**

No court, nor any judge or judges of it, shall have jurisdiction to issue any restraining order or temporary or permanent injunction which in specific or general terms prohibits any person or persons from doing, whether singly or in concert, any of the following acts:

- (1) ceasing or refusing to perform any work or to remain in any relation of employment regardless of any promise, undertaking, contract or agreement to do such work or to remain in such employment;
- (2) becoming or remaining a member of any labor organization or of any employer organization, regardless of any such undertaking or promise as is described in Section 34-19-3;
- (3) paying or giving to or withholding from any person any strike or unemployment benefits or insurance or other money or things of value;
- (4) by all lawful means aiding any person who is being proceeded against in or is prosecuting any action or suit in any court of the United States or of any state;
- (5) giving publicity to and obtaining or communicating information regarding the existence of or the facts involved in any dispute, whether by advertising, speaking, patrolling any public street or

- any place where any person or persons may lawfully be, without intimidation or coercion, or by any other method not involving fraud, violence, breach of the peace, or threat of same;
- (6) ceasing to patronize or to employ any person or persons;
  - (7) assembling peaceably to do or to organize to do any of the acts heretofore specified or to promote lawful interests;
  - (8) advising or notifying any person or persons of an intention to do any of the acts heretofore specified;
  - (9) agreeing with other persons to do or not to do any of the acts heretofore specified;
  - (10) advising, urging, or inducing without fraud, violence, or threat of same, others to do the acts heretofore specified, regardless of any such undertaking or promise as is described in Section 34-19-3;
  - (11) doing any act or thing which might lawfully be done in the absence of labor dispute by any party thereto; or
  - (12) doing in concert any or all of the acts heretofore specified on the ground that the persons engaged therein constitute an unlawful combination or conspiracy.

Amended by Chapter 10, 1997 General Session

**34-19-3 Liability of organizations or their members for unlawful acts of individuals.**

No officer or member of any association or organization or no association or organization participating or interested in a labor dispute shall be held responsible or liable in any civil action at law or suit in equity, or in any criminal prosecution, for the unlawful acts of individual officers, members, or agents, except upon proof by the weight of evidence and without the aid of any presumptions of law or fact, both of:

- (1) the doing of such acts by persons who are officers, members or agents of any such association or organization; and
- (2) actual participation in, or actual authorization of, such acts, or ratification of such acts after actual knowledge thereof by such association or organization.

Enacted by Chapter 85, 1969 General Session

**34-19-4 Injunctive relief -- Reasons for prohibiting.**

Equity procedure that permits a complaining party to obtain sweeping injunctive relief that is not preceded by or conditioned upon notice to and hearing of the responding party or parties, or that issues after hearing based upon written affidavits alone and not wholly or in part upon examination, confrontation and cross-examination of witnesses in open court, is peculiarly subject to abuse in labor litigation for the reasons that:

- (1) The status quo cannot be maintained but is necessarily altered by the injunction;
- (2) Determination of issues of veracity and/or probability of fact from affidavits of the opposing parties that are contradictory and, under the circumstances, untrustworthy rather than from oral examination in open court is subject to grave error;
- (3) Error in issuing the injunctive relief is usually irreparable to the opposing party; and
- (4) Delay incident to the normal course of appellate practice frequently makes ultimate correction of error in law or in fact unavailing in the particular case.

Enacted by Chapter 85, 1969 General Session

**34-19-5 Injunctive relief -- When available -- Necessary findings -- Procedure.**

- (1) No court, nor any judge or judges of a court, shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, as defined in Section 34-19-11, except after hearing the testimony of witnesses in open court, with opportunity for cross-examination, in support of the allegations of a complaint made under oath and testimony in opposition to it, if offered, and except after findings of all of the facts described in Subsection (2) by the court, or a judge or judges.
- (2) The findings required by Subsection (1) are all of the following:
  - (a) that unlawful acts have been threatened or committed and will be executed or continued unless restrained;
  - (b) that substantial and irreparable injury to property or property rights of the complainant will follow unless the relief requested is granted;
  - (c) that as to each item of relief granted greater injury will be inflicted upon complainant by the denial of it than will be inflicted upon defendants by the granting of it;
  - (d) that no item of relief granted is relief that a court or judge of it has no jurisdiction to restrain or enjoin under Section 34-19-2;
  - (e) that the complainant has no adequate remedy at law; and
  - (f) that the public officers charged with the duty to protect complainant's property have failed or are unable to furnish adequate protection.
- (3) Subject to Subsection (4), the hearing required by Subsection (1) shall be held after due and personal notice of it has been given, in such manner as the court shall direct, to all known persons against whom relief is sought, and also to those public officers charged with the duty to protect complainant's property.
- (4)
  - (a) If a complainant shall also allege that unless a temporary restraining order shall be issued before a hearing may be had, a substantial and irreparable injury to complainant's property will be unavoidable, a temporary restraining order may be granted upon the expiration of such reasonable notice of application for the restraining order as the court may direct by order to show cause, but in no less than 48 hours. This order to show cause shall be served upon such party or parties as are sought to be restrained and as shall be specified in the order, and the restraining order shall issue only upon testimony, or in the discretion of the court, upon affidavits, sufficient, if sustained, to justify the court in issuing a temporary injunction upon a hearing as provided for in this section.
  - (b) Such a temporary restraining order shall be effective for no longer than five days, and at the expiration of said five days shall become void and not subject to renewal or extension, except that if the hearing for a temporary injunction shall have been begun before the expiration of the five days, the restraining order may in the court's discretion be continued until a decision is reached upon the issuance of the temporary injunction.
- (5) No temporary restraining order or temporary injunction shall be issued except on condition that the complainant shall first file an undertaking with adequate security sufficient to recompense those enjoined for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction, including all reasonable costs, together with reasonable attorney fees, and expense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court. This undertaking shall be understood to signify an agreement entered into by the complainant and the surety upon which a decree may be rendered in the same suit or proceeding against such complainant and surety, the complainant and the surety submitting themselves to the jurisdiction of the court for that purpose, except that nothing in this Subsection (5) shall deprive any party having a claim

or cause of action under or upon such undertaking from electing to pursue the party's ordinary remedy by suit at law or in equity.

Amended by Chapter 348, 2016 General Session

**34-19-6 Injunctive relief -- Compliance with law necessary.**

No restraining order or injunctive relief shall be granted to any complainant who has failed to comply with any obligation imposed by law which is involved in the labor dispute in question, or who has failed to make every reasonable effort to settle such dispute either by negotiation or with the aid of any available machinery of governmental mediation or voluntary arbitration, but nothing herein contained shall be deemed to require the court to await the action of any such tribunal if irreparable injury is threatened.

Enacted by Chapter 85, 1969 General Session

**34-19-7 Injunctive relief -- Findings of fact -- Limited application.**

No restraining order or temporary or permanent injunction shall be granted in a case involving or growing out of a labor dispute, except on the basis of finding of fact made and filed by the court in the record of the case prior to the issuance of such restraining order or injunction. Every restraining order or injunction granted in a case involving or growing out of a labor dispute shall include only a prohibition of such specific act or acts as may be expressly complained of in the complaint or petition filed in such case and expressly included in the finding of fact made and filed by the court as provided herein and shall be binding only upon the parties to the suit, their agents, servants, employees and attorneys, or those in active concert and participation with them, and who shall by personal service or otherwise have received actual notice of the same.

Enacted by Chapter 85, 1969 General Session

**34-19-8 Injunctive relief -- Appeals.**

Whenever any court, or judge or judges of it, shall issue or deny any temporary injunction in a case involving or growing out of a labor dispute, the court shall, upon the request of any party to the proceedings, and on his filing the usual bond for costs, forthwith certify the entire record of the case, including a transcript of the evidence taken, to the appropriate appellate court for its review. Upon the filing of such record in the appropriate appellate court the appeal shall be heard with the greatest possible expedition, giving the proceeding precedence over all other matters except older matters of the same character.

Enacted by Chapter 85, 1969 General Session

**34-19-9 Injunctive relief -- Contempt -- Rights of accused.**

In all cases where a person shall be charged with indirect criminal contempt for violation of a restraining order or injunction issued by a court, or judge or judges of it, the accused shall enjoy:

- (1) the rights as to admission to bail that are accorded to persons accused of crime;
- (2) the right to be notified of the accusation and a reasonable time to make a defense, provided the alleged contempt is not committed in the immediate view of or in the presence of the court;
- (3) upon demand, the right to a speedy and public trial by an impartial jury of the judicial district in which the contempt shall have been committed. This requirement may not be construed to apply to contempts committed in the presence of the court or so near to it as to interfere directly

- with the administration of justice or to apply to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders or process of the court; and
- (4) the right to file with the court a demand for the retirement of the judge sitting in the proceeding, if the contempt arises from an attack upon the character or conduct of such judge and if the attack occurred otherwise than in open court. Upon the filing of any such demand the judge shall proceed no further, but another judge shall be designated by the presiding judge of the court. The demand shall be filed prior to the hearing in the contempt proceeding.

Amended by Chapter 297, 2011 General Session

**34-19-10 Injunctive relief -- Contempt -- Penalty.**

Punishment for a contempt, specified in Section 34-19-9, may be by fine, not exceeding \$100, or by imprisonment not exceeding 15 days in the jail of the county where the court is sitting, or both, in the discretion of the court. Where a person is committed to jail for the nonpayment of such a fine, the person shall be discharged at the expiration of 15 days; but if the person is also committed for a definite time, the 15 days shall be computed from the expiration of the definite time.

Amended by Chapter 297, 2011 General Session

**34-19-11 "Labor dispute" defined.**

- (1) The words "labor dispute" as used in this chapter include any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, or concerning employment relations, or any other controversy arising out of the respective interests of employer and employee, regardless of whether or not the disputants stand in the proximate relation of employer and employee.
- (2) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it and if he or it is engaged in the industry, trade, craft, or occupation in which such dispute occurs, or is a member, officer, or agent of any association of employers or employees engaged in such industry, trade, craft, or occupation.
- (3) A case shall be held to involve or grow out of a labor dispute when the case involves persons who are engaged in a single industry, trade, craft, or occupation; or who are employees of one employer; or who are members of the same or an affiliated organization of employers or employees whether such dispute is:
- (a) between one or more employers or associations of employers and one or more employees or associations of employees;
  - (b) between one or more employers or associations of employers and one or more employers or associations of employers; or
  - (c) between one or more employees or associations of employees and one or more employees or associations of employees; or when the case involves any conflicting or competing interests in a labor dispute of persons participating or interested in it.

Enacted by Chapter 85, 1969 General Session

**34-19-12 Deputizing of employees prohibited.**

No employee of any employer whose employees are on strike or lockout for any reason shall be deputized for any purpose arising from or in connection with such strike by any sheriff, chief of

police, town marshal, officer of the highway patrol, or any other peace officer during the time such strike or lockout exists.

Any person who violates the provisions of this section shall be guilty of a misdemeanor.

Enacted by Chapter 85, 1969 General Session

**34-19-13 Agreements against public policy.**

Each of the following undertakings or promises hereafter made, whether written or oral, express or implied, between any employee or prospective employee and the employee's or prospective employee's employer, prospective employer, or any other individual, firm, company, association, or corporation, is contrary to public policy and may not be a basis for the granting of legal or equitable relief by any court against a party to the undertaking or promise, or against any other person who may advise, urge, or induce, without fraud, violence or threat of violence, either party to act in disregard of the undertaking or promise:

- (1) an undertaking or promise by either party to join or to remain a member of some specific labor organization or organizations or to join or remain a member of some specific employer organization or any employer organization or organizations;
- (2) an undertaking or promise by either party to not join or not remain a member of some specific labor organization or any labor organization or organizations, or of some specific employer organization or any employer organization or organizations; or
- (3) an undertaking or promise by either party to withdraw from an employment relation in the event that the party joins or remains a member of some specific labor organization or any labor organization or organizations, or of some specific employer organization or any employer organization or organizations.

Amended by Chapter 297, 2011 General Session